

**REMARKS**

This Application has been carefully reviewed in light of the Final Office Action mailed November 15, 2005. Applicants appreciate the Examiner's consideration of the Application. At the time of the Office Action of November 15, 2005, Claims 1-44 were pending in the Application and stand rejected. In order to advance prosecution of this Application, Applicants have responded to each notation by the Examiner. Applicants respectfully request reconsideration and favorable action in this case.

Independent Claims 1, 6, 11, 16, 18, 20, 22, 24, 26, 28, 33, 38, 43, and 44 and dependent Claim 25 have been amended to clarify, more particularly point out, and more distinctly claim inventive concepts previously present in these claims. Certain amendments do not narrow the scope of the claims, and certain amendments are not required for patentability. Applicants respectfully submit that no new matter has been added by the amendments to the claims. Applicants believe that the amendments place the case in condition for allowance or in better condition for appeal, do not raise the issue of new matter, and do not present new issues requiring further consideration or search. Accordingly, Applicants respectfully request that the Examiner enter the amendments.

**Objected to Claims**

The Examiner indicated that Claims 11, 25, 38, and 44 are objected to based on informalities. Claims 11, 25, 38, and 44 have been amended to correct the informalities. Accordingly, Applicants respectfully request that the Examiner remove the objections to the claims.

**Section 102 Rejection**

The Examiner rejects Claims 1-4, 6-9, 11-14, and 16-44 under 35 U.S.C. § 102(b) as being unpatentable over United States Patent Application Publication 2005/0053068 A1 of Toth et al. ("Toth"). Applicants respectfully traverse this rejection for the reasons discussed below.

Applicants respectfully submit that *Toth* fails to disclose, or even teach or suggest, the elements specifically recited in Applicants' claims. For example, Claim 1, as amended, recites, "directing an enabler mobile to facilitate delivery of the multicast content to the user device using the bearer path, the enabler mobile located in the cell, *the enabler mobile*

*distinct from a base station*" (emphasis added).

The Examiner relies on a radio access node (RAN) of *Toth* to teach an enabler mobile. The Examiner states that *Toth* discloses "a method for providing a multicast service," which comprises "directing an enabler mobile to facilitate delivery of the multicast content to the user device using the bearer path, the enabler mobile located in the cell (Fig. 3, RAN forwards multicast data to the MS, RAN is located within a cell)." Office Action, page 3, paragraphs 2 and 6.

In the *Toth* system, a RAN refers to a base station. *Toth* states, "a number of mobile stations M1-M10 are wirelessly connected to a number of **base stations, also denoted radio access nodes (RANI-RANS)**." *Toth* at paragraph 0050 (emphasis added). That is a RAN is merely another name for a base station. Therefore, a RAN of *Toth* cannot be distinct from a base station. Accordingly, at a minimum, *Toth* fails to disclose, or even teach or suggest, "directing an enabler mobile to facilitate delivery of the multicast content to the user device using the bearer path, the enabler mobile located in the cell, **the enabler mobile distinct from a base station**," as recited in Claim 1, as amended (emphasis added). For at least these reasons, *Toth* fails to disclose, teach, or suggest the combination of elements specifically recited in Applicants' amended Claim 1.

For at least similar reasons, Applicants also respectfully request reconsideration and allowance of independent Claims 11, 16, 18, 20, 22, 24, 26, 28, 33, 38, 43, and 44.

Applicants' dependent Claims 2-4, 7-9, 12-14, 17, 19, 21, 23, 25, 27, 29-32, 34-37, and 39-42 are allowable based on their dependence on the independent claims and further because they recite numerous additional patentable distinctions over the reference of the rejection. Because Applicants believe they have amply demonstrated the allowability of the independent claims over the reference of the rejection, and to avoid burdening the record, Applicants have not provided detailed remarks concerning these dependent claims. Applicants, however, remain ready to provide such remarks if it becomes appropriate to do so. Applicants respectfully request reconsideration and allowance of dependent Claims 2-4, 7-9, 12-14, 17, 19, 21, 23, 25, 27, 29-32, 34-37, and 39-42.

### Section 103(a) Rejection

The Examiner rejects Claims 5, 10, and 15 under 35 U.S.C. § 103(a) as being unpatentable over *Toth* in view of the Patent Cooperation Treaty (PCT) application WO

03/039024 A2 of Rodriguez et al. ("Rodriguez"). Applicants respectfully traverse this rejection for the reasons discussed below.

As discussed above, *Toth* fails to disclose, or even teach or suggest, "directing an enabler mobile to facilitate delivery of the multicast content to the user device using the bearer path, the enabler mobile located in the cell, *the enabler mobile distinct from a base station*," recited in independent Claims 1, 6, and 11 (emphasis added). For at least similar reasons, *Toth* fails to disclose, teach, or suggest the combination of elements specifically recited in amended independent Claims 1, 6, and 11, whether *Toth* is considered alone or in combination with *Rodriguez*. Accordingly, the *Toth-Rodriguez* combination suggested by the Examiner fails to disclose, teach, or suggest the elements specifically recited in Applicants' independent Claims 1, 6, and 11, as amended.

Applicants' dependent Claims 5, 10, and 15 are allowable based on their dependence on independent Claims 1, 6, and 11 and further because they recite numerous additional patentable distinctions over the references of the rejection. Accordingly, Applicants respectfully request reconsideration and allowance of dependent Claims 5, 10, and 15.

**CONCLUSION**

Applicants have made an earnest attempt to place this case in condition for allowance. For at least the foregoing reasons, Applicants respectfully request full allowance of all the pending claims.

If the Examiner believes a telephone conference would advance prosecution of this case in any way, the Examiner is invited to contact Keiko Ichiye, the Attorney for Applicants, at the Examiner's convenience at (214) 953-6494.

Although Applicants believe no fees are due, the Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

BAKER BOTT S L.L.P.  
Attorneys for Applicants



Keiko Ichiye  
Reg. No. 45,460

KI/ls

**Correspondence Address:**

Baker Botts L.L.P.  
2001 Ross Avenue, Suite 600  
Dallas, Texas 75201-2980  
(214) 953-6494  
Date: Jan 13, 2006

**Customer Number: 05073**